

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**KEITH E. MCCLAIN, and JOYCE A.
MCCLAIN,**

Plaintiffs,

vs.

ETHICON ENDO-SURGERY, INC.,

Defendant.

8:19CV53

**AMENDED
CASE PROGRESSION ORDER**

This matter comes before the Court on the parties' Joint Motion to Amend Progression Order ([Filing No. 22](#)). After review of the parties' motion, the Court finds good cause to grant the requested extensions. Accordingly,

IT IS ORDERED that the Joint Motion to Amend Progression Order ([Filing No. 22](#)) is granted, and the final progression order is amended as follows:

- 1) The trial and pretrial conference are cancelled.
- 2) The deadline for completing written discovery under Rules 33, 34, and 36 of the Federal Rules of Civil Procedure is **July 17, 2020**. Motions to compel discovery under Rules 33, 34, and 36 must be filed by **July 31, 2020**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge on or before the motion to compel deadline to set a conference to discuss the parties' dispute, and after being granted leave to do so by the Court.

- 3) A status conference to discuss case progression and the parties' interest in settlement will be held with the undersigned magistrate judge on **August 17, 2020**, at **9:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 4) The deadlines to identify expert witnesses and to complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiffs:

July 17, 2020

For the defendant:

September 18, 2020

Plaintiffs' rebuttal:

October 16, 2020

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 5) The deposition deadline is **November 20, 2020**.
- 6) A status conference to discuss dispositive motions, the pretrial conference and trial dates, and settlement status will be held with the undersigned magistrate judge on **November 20, 2020**, at **9:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 7) The deadline to file any motion to strike a party's jury demand is **January 29, 2021**.
- 8) The deadline for filing motions to dismiss and motions for summary judgment is **January 29, 2021**.
- 9) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **January 29, 2021**.
- 10) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 11) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 14th day of January, 2020.

BY THE COURT:

s/Michael D. Nelson
United States Magistrate Judge